IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1463 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DALPATHBHAI N PARMAR & 1 - Petitioner(s)

Versus

STATE OF GUJ & 2 - Respondent(s)

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Appearance :
MR HJ NANAVATI for Petitioner(s) : 1 - 2.
MR LB DABHI, AGP for Respondent(s) : 1 - 3.
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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 19/12/2005

ORAL JUDGMENT

1. The petitioners have filed this petition under Article 226 of the Constitution of India, praying for quashing and setting aside the order dated 23/24-3-1987 passed by the District Backward Class Welfare Officer, respondent No.3 in the present petition. The petitioners have also sought for the direction from this Court to the respondent to reinstate them to their original post with continuity of service and to pay them arrears of salary.

2. The petition was admitted on 18.10.1988 and interim relief was refused.

3. This Court has passed an order on 24.3.2004, referring the matter to the Division Bench, as number of matters involving identical issues were pending before the Division Bench of this Court. The Division Bench has disposed of LPA No.1773/1999 and other cognate matters on

6.10.2005. While dealing with the aforesaid matter, the Division Bench vide its order dated 13.10.2005 has directed that this Special Civil Application now be listed before the Single Judge. This is how the matter is placed before this Court.

4. Heard Mr.H.J.Nanavati, learned advocate appearing for the petitioners and Mr.L.B.Dabhi, learned AGP appearing for the respondent. There is consensus amongst the party that the issue raised in the present petition is squarely covered by the decision of the Division Bench rendered in the LPA No.1773/1999 and other cognate matters. The only difference between the other group which is decided by the Division Bench and the present matter is that in the present case the petitioners have already been dismissed and dismissal order is implemented by the respondent authorities.

Mr.Nanavati, however, submitted that since the policy decision has been taken by the State Government this case should also be considered in view of the policy decision and in view of the direction issued by the Division Bench.

5. It is pertinent to note here that while disposing of the LPA the Division Bench has laid down following three terms in its order on the basis of the recommendations made by the Committee constituted by the State Government vide Notification dated 7.5.2005 and on the basis of the statement made by the learned AGP appearing for the State Government in the said Appeal before the Division Bench.

(a) The decisions taken by the State Government, which have been reproduced above shall be read as part of this order.

(b) The process of recruitment already initiated for filing up Class-III posts in the

service of State Government or Panchayats shall be completed, as far as possible, within six months and the Pracharaks be given the benefit in terms of Clause-3 of the decision.

(c) In future recruitments, the Pracharaks shall be given the benefit of relaxation in age qualification and their candidature be considered in accordance with the relevant rules provided they possess necessary educational qualification.

6. In the above view of the matter, the present petition is accordingly disposed off with a liberty to the petitioners to make suitable representation before the competent authority and if such a representation is made by the petitioners, the same shall be considered by the competent authority in accordance with the policy decision taken by the State Government and without being influenced by the earlier

dismissal order passed by them.

7. Subject to the aforesaid directions and observations this petition is accordingly disposed off. Rule is discharged without any order as to costs.

(K. A. PUJ, J.)

kks